

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

GRACIE E. McBROOM,

Plaintiff,

vs.

Civil Action 2:12-CV-1074  
Judge Marbley  
Magistrate Judge King

HR DIRECTOR, FRANKLIN COUNTY  
BOARD OF ELECTIONS, *et al.*,

Defendants.

ORDER and  
REPORT AND RECOMMENDATION

Plaintiff, who is proceeding without the assistance of counsel, brings this civil action alleging that she was removed as an election official on account of her race and color. Named as defendants are the "HR Director Franklin County Board of Elections" and a Franklin County Assistant Prosecuting Attorney. Plaintiff has been granted leave to proceed *in forma pauperis*. Doc. No. 2. This matter is now before the Court for the initial screen of the sufficiency of the *Complaint* required by 28 U.S.C. § 1915(e).

The *Complaint* asserts a claim of race discrimination under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000-5, and a claim of infliction of emotional distress. However, nowhere in the lengthy *Complaint* does plaintiff allege that defendant Scott J. Gaugler, the Assistant Prosecuting Attorney who apparently represented respondent in proceedings before the Ohio Civil Rights Commission, discriminated against plaintiff in her employment or inflicted emotional distress. The *Complaint* therefore fails to state a claim against this defendant upon which relief can be granted.

It is therefore **RECOMMENDED** that the claims asserted against

defendant Gaugler be dismissed.

It is **ORDERED** that the claims asserted against "HR Director Franklin County Board of Elections" proceed. In so ordering, the Court expresses no opinion as to whether or not plaintiff was employed by this defendant for purposes of Title VII. The United States Marshal Service is **DIRECTED** to effect service of process on this defendant, who shall have 45 days after service of process to respond to the *Complaint*.

If any party seeks review by the District Judge of this *Report and Recommendation*, that party may, within fourteen (14) days, file and serve on all parties objections to the *Report and Recommendation*, specifically designating this *Report and Recommendation*, and the part thereof in question, as well as the basis for objection thereto. 28 U.S.C. §636(b)(1); F.R. Civ. P. 72(b). Response to objections must be filed within fourteen (14) days after being served with a copy thereof. F.R. Civ. P. 72(b).

The parties are specifically advised that failure to object to the *Report and Recommendation* will result in a waiver of the right to *de novo* review by the District Judge and of the right to appeal the decision of the District Court adopting the *Report and Recommendation*. See *Thomas v. Arn*, 474 U.S. 140 (1985); *Smith v. Detroit Federation of Teachers, Local 231 etc.*, 829 F.2d 1370 (6th Cir. 1987); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

November 21, 2012  
(Date)

s/Norah McCann King  
Norah M<sup>c</sup>Cann King  
United States Magistrate Judge